

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

RONALD A. BERUTTI and MURRAY-  
NOLAN BERUTTI LLC, on their own  
behalfs and on behalf of all other  
members admitted to the Bar of the United  
States District Court for the District of  
New Jersey, including those admitted *pro*  
*hac vice*,

Plaintiffs,

v.

The HONORABLE RENÉE MARIE  
BUMB, Chief United States District Judge  
of the District of New Jersey, in her  
judicial capacity, and MELISSA  
RHOADS, Acting Clerk of the United  
States District Court for the District of  
New Jersey,

Defendants.

No. 2:22-CV-04661

(Chief Judge Brann)\*

**ORDER**

**JUNE 29, 2023**

The Court has turned its attention to Defendants' motion to dismiss Plaintiff Ronald A. Berutti and Murray-Nolan Berutti LLC's (collectively, "Berutti") Second Amended Complaint ("SAC").<sup>1</sup> The Court believes clarification of several issues is necessary and will therefore schedule oral argument on Defendants' motion. Counsel are welcome to

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\* The Honorable Matthew W. Brann, Chief United States District Judge for the Middle District of Pennsylvania, sitting by designation.

<sup>1</sup> MTD, Doc. 36.

appear in-person, telephonically, or virtually.<sup>2</sup> The issues the Court wishes to discuss include, but are not limited to, the following:

- Whether Berutti filed suit against Chief Judge Bumb in her judicial capacity or her official capacity as the administrator of the United States District Court for the District of New Jersey.
- Whether Berutti filed suit against Defendant Melissa Rhoads in her official or personal capacity.<sup>3</sup>
- Whether Berutti has factually alleged a violation of the Free Speech Clause of the First Amendment and if so, what facts support such an allegation.
- Whether Berutti has adequately alleged the denial of a benefit for the purposes of standing for his Equal Protection claim.
- Whether Defendants have sovereign immunity to Berutti's *Bivens* actions and whether *Bivens* permits Berutti to seek injunctive relief or only limits him to money damages.

Upon resolution of these issues, the Court will promptly rule on Berutti's motion. Accordingly, **IT IS HEREBY ORDERED** that oral argument on Defendants' motion to dismiss is **SCHEDULED** for **July 24, 2023, at 2:30 p.m.** in Courtroom 1, Fourth Floor, United States Courthouse and Federal Building, 240 West Third Street, Williamsport, Pennsylvania.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge of the  
Middle District of Pennsylvania

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<sup>2</sup> Should counsel for either party wish to appear virtually or telephonically, the Court advises them to contact the Court with their preference at least five (5) business days prior to the date set for argument and the Court will make the necessary arrangements.

<sup>3</sup> Berutti has both identified Walsh/Rhoads in their official capacity or failed to identify which capacity he sues them in. *See* FAC, Doc. 6 at 1 (no capacity identified); SAC, Doc. 30 at 1 (same); MTD Opp., Doc. 39 (identifying Rhoads in her official capacity); MTD FAC Opp., Doc. 26 (failing to identify Walsh as a Defendant entirely); *see also Melo v. Hafer*, 912 F.2d 628, 634-37 (3d Cir. 1990), *aff'd*, 502 U.S. 21 (1991) (explaining the distinction between personal-capacity and official-capacity suits; *Gregory v. Chehi*, 843 F.2d 111, 119 (3d Cir. 1988) (same).